

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE FIFTEENTH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE DR JUSTICE G.YETHIRAJULU

WRIT PETITION NO : 16504 of 2004

Between:

K.Srisailam, S/o.Sangaiah, Ex.Driver,
R/o.Yalkurthy Village, Tekmal Mandal, Medak Dist.

..... PETITIONER

AND

- 1 A.P.S.R.T.C.Rep. by its Managing Director., Musheerabad, Hyderabad-20.
- 2 The Depot Manager, APSRTC., Cantonment Depot,
Secunderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ, order or direction, more particularly one in the nature of writ of Mandamus, declaring that the action of the 2nd respondent in proceedings No.P2/1(20)/2002-CNT, dated 29-6-2004, deleting name of the petitioner from the Approved/select List of Casual Drivers as illegal, unjust, contrary to law, arbitrary, in violation of principles of natural justice, without jurisdiction and amounts to unfair labour practice and also violative of Articles 14, 16 and 21 of the Constitution of India, and grant all consequential benefits, .

Counsel for the Petitioner:MR.A.K.JAYAPRAKASH RAO

Counsel for the Respondents: MR.V.T.M.PRASAD (SC FOR APSRTC)

The Court at the stage of admission made the following :

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ORDER:

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The petitioner is a daily wages Driver in the respondent Corporation. He was selected as a Driver through the recruitment process and he joined the duty as Driver on 18-3-2002 and worked continuously till 3-12-2003. Petitioner further contends that on 29-6-2004, the 2nd respondent passed an order discharging him from duty by deleting his name from the approved list of the Drivers with immediate effect, alleging absence from duty, without giving any opportunity to the petitioner. The petitioner further contends that the show cause notice issued to him on 20-11-2002 alleging that he was absent from the duty unauthorisedly and that his work was not satisfactory. The petitioner submitted his explanation, but the 2nd respondent passed the impugned order without issuing any charge sheet and without conducting any enquiry. Therefore, the said order dated 29-6-2004 is illegal and invalid.

The material placed before this Court reveals that the petitioner worked for a considerable period in the respondent Corporation. Had there been any misconduct on the part of the petitioner, the respondents would have conducted an enquiry by giving an opportunity to the petitioner and pass appropriate orders. Had the impugned order been passed after conducting enquiry, the position would have been different. Since, the respondents resorted to delete the name of the petitioner from the list of approved Drivers by disengaging him from service without conducting any enquiry, the said order cannot be sustained.

In the light of the above circumstances, the impugned order dated 29-6-2004 is set aside. The 2nd respondent is directed to restore the name of the petitioner in the list of the approved casual Drivers and continue to avail his services as and when require. However, this order will not preclude the respondent Corporation from conducting any enquiry as per the Rules. The respondent Corporation after giving

an opportunity to the petitioner may pass appropriate orders according to law.

The Writ Petition is accordingly allowed. No order as to costs.

Dr. G.Yethirajulu, J.

15th September, 2004.

KM

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1. The Managing Director,
A.P.S.R.T.C., Musheerabad, Hyderabad-20.
- 2 The Depot Manager, APSRTC., Cantonment Depot,
Secunderabad.
3. 2CD copies

THE HON'BLE DR JUSTICE G.YETHIRAJULU

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15TH September, 2004